

## **REMARKS**

Reconsideration of the subject application in view of the above amendment is respectfully requested.

By the present amendment, claims 4 and 8 have been amended.

Based on the foregoing amendments and the following remarks, the application is deemed to be in condition for allowance, and action to that end is respectfully requested.

### **I. REJECTION OF CLAIMS UNDER 35 U.S.C. § 112**

The Examiner has rejected claims 4-5, 8 and 10-11 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants have amended claims 4 and 8 to overcome the Examiner's rejection thereto. Claim 5 depends on claim 4 and thus the amendment to claim 4 overcomes the rejection of claims 4 and 5. Accordingly, Applicants respectfully request withdrawal of the rejection to claims 4, 5 and 8 under 35 U.S.C. § 112, second paragraph. Applicants disagree with the Examiner's rejection of claims 10-11 under 35 U.S.C. § 112, second paragraph. In particular, the feature "can be shifted into a fuel expression movement" (claims 10 and 11) is explained in further detail on page 10, paragraphs 2 and 3. The feature "is excited using the control

device” (claim 11) is explained further on page 9, last paragraph, and page 10, first paragraph. Accordingly, Applicants respectfully request withdrawal of the rejection to claims 10-11 under 35 U.S.C. § 112, second paragraph.

## **II. REJECTION OF CLAIMS UNDER 35 U.S.C. § 103**

The Examiner has rejected claims 1-6 and 8-11 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,722,548 (Odoni) in view of U.S. Patent No. 5,000,128 (Veldman). Applicant respectfully appreciates the Examiner’s indication that this rejection can be overcome by a showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person..

Application 10/743,168 and U.S. Patent No. 6,722,548 were, at the time of the invention was made, owned by Hilti Aktiengesellschaft. The assignment of Application 10/743,168 is recorded at Reel/Frame 014844/0046 and the assignment of U.S. Patent No. 6,722,548 is recorded at Reel/Frame 014065/0034. Copies of each of these assignment documents are attached hereto.

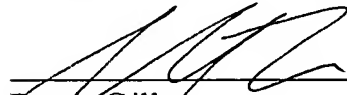
Accordingly, Applicants respectfully request withdrawal of the rejection of claims 1-6 and 8-11 under 35 U.S.C. § 103(a) and allowance of such claims.

### **CONCLUSION**

In view of the foregoing, it is respectfully submitted that the application is in condition for allowance, and allowance of the application is respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects, in order to place the case in condition for final allowance, then it is respectfully requested that such amendment or correction be carried out by Examiner's amendment and the case passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, the Examiner is invited to telephone the undersigned.

Respectfully Submitted,



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Dated: November 16, 2004  
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail and addressed to: Mail Stop Amendment, Commissioner for Patents, Alexandria, VA 22313-1450 on November 16, 2004.

